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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,494	09/07/2005	Robert Constant Vanhoutte	Q85554	5385
23373	7590	12/14/2007		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER BRACE, EVERETT M	
			ART UNIT 4155	PAPER NUMBER
			MAIL DATE 12/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/519,494

**Applicant(s)**VANHOUTTE, ROBERT  
CONSTANT**Examiner**

Everett M. Brace

**Art Unit**

4155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 200201525.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/31/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

- a. Page 3, Line 3, "faceand" should be two words. For the purpose of this examination, the examiner presumes that "faceand" should read " face and". Appropriate correction is required.
- b. Applicant refers too Item (1) as "bodies", "modules", and "elements". For the purposes of this examination the examiner presumes all references pertain to the same item. Appropriate correction is required.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show (1") in Figures 4,5,and 6 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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The term "substantially" in claim 2 is a relative term which renders the claim indefinite.

The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially" in claim 2 is a relative term which renders the claim indefinite.

The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 5 discloses a "lost element". It is unclear what the applicant claims as a "lost element"

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,3,4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dielenberg (4,439,967).

Regarding Claim 1 Dielenberg discloses an concrete wall form work element that has:

- a. A rectangular body. (Figure 1)
- b. Made of a hard foam resin material. (Column 1, Lines 46-50)
- c. "Open at the upper and lower faces...with multiple small projections...between one another." ( Figure 5, Items 113,115,137)
- d. "the projections on the upper face being offset with respect...superimposition of the bodies" (Column 3, Lines 50-55) (Additionally Figure 4 illustrates the superimposition of the formwork elements.

Regarding Claim 2 Dielenberg discloses a formwork element according to Claim 1 further comprising:

- a. internal "transverse walls" that are of a height smaller than that of the body itself. ((Column 3, Lines 40-45), (Figure 5, Item 106)) The examiner considers "transverse walls" as rigidifying partitions.

Regarding Claim 3 Dielenberg discloses a formwork element according to Claims 1 and 2 wherein the prismatic body "incorporates wide indentations...metal frameworks". (Figure 1, Item 13)

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Regarding Claim 4 Dielenberg discloses a formwork element according to Claim 3 "characterized in that the... terminal one, is closed". (Figure 5, Item 104)

The examiner notes that is inherent from Dielenberg's disclosure because inserts 108 (Figure 5) , and 122 (Figure 5) which make up end wall (Item 104) are removable to accommodate having indentations on one side of a form and element and a closed side on the other side of the form element.

Regarding Claim 6 Dielenberg discloses a formwork element characterized by the fact that it is capable of housing therein, "in addition to the said vertical....body's wall". ((Column 4, Lines 65-68, (Column 5 Lines 1-5))

***Allowable Subject Matter***

Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Everett M. Brace whose telephone number is (571) 270-3732. The examiner can normally be reached on Monday-Friday, 8:00 a.m.-5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571)272-2001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Vic Batson  
Primary Examiner  
Art Unit 4155

EMB